In the High Court of Judicature at Madras

Dated:11.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.404 of 2006
and HCMP.No.55 of 2006

Mrs. P. Nirmala .. Petitioner

vs.

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. M.K. Subramanian

For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

.

ORDER

(Order of the Court was made by V. DHANAPALAN,J.)

The petitioner by name P. Nirmala, challenges the impugned order of detention dated 01.04.2006, detaining her husband Palani, as "Video Pirate" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1981 (Tamil Nadu Act 14 of 1982).

2. Heard both sides.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. Even at the foremost the learned counsel for the petitioner submitted that there was delay in considering the representation of the detenue, which vitiates the ultimate order of detention. With reference to the said claim the learned Additional Public Prosecutor has placed details, which show that the representation of the detenue dated 11.04.2006 was received by the Government on 17.04.2006 and remarks were called on 18.04.2006, remarks were received on 20.04.2006. After receipt of the remarks, the file was dealt with by the Under Secretary and the Deputy Secretary on 21.04.2006; order was passed by the Minister for Prohibition and Excise on 24.04.2006, rejection letter was prepared on 10.05.2006; the same was sent to the detenue on 11.05.2006 and the rejection letter was served on the detenue only on 12.05.2006. As rightly pointed out though the Minister has passed an order on 24.04.2006, there is no explanation or reason for preparing the rejection letter till 10.05.2006. In the absence of any explanation, we hold that there is a delay between 24.04.2006 and 10.05.2006. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenue is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

In view of disposal of the main petition, connected HCMP., is closed.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The Superintendent
   Central Prison, Chennai.

4. The Inspector of Police
   Video Piracy CB CID
   Chennai.

5. The Public Prosecutor
   High Court, Madras.

6. The Joint Secretary to Government
   Public (Law and Order),
   Fort St. George, Chennai-9.

pv (co)

dv/20.7.06

Order in
H.C.P.No.404 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/